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AMENDED IN ASSEMBLY APRIL 1, 1998
AMENDED IN ASSEMBLY MARCH 9, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1650

**Introduced by Assembly Member Richter
(Principal coauthor: Assembly Member Bowen)**

January 7, 1998

An act to amend Section 13480 of the Business and Professions Code, *and to amend Sections 25281, 25299.10, 25299.13, 25299.37, 25299.39.2, 25299.52, 25299.54, 25299.57, and 25299.59 of, to add Sections 25299.11.5, 25299.62, and 25299.63 to, and to repeal and add Section 25299.56 of, the Health and Safety Code*, relating to ~~gasoline~~ *underground storage tanks*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1650, as amended, Richter. ~~Gasoline:—labeling~~
Underground storage tanks: gasoline.

(1) Existing law makes it a misdemeanor to sell any motor fuel that does not have a prescribed sign or label relating to the ethanol or methanol content.

This bill would repeal those provisions.

(2) *Existing law generally regulates the storage of hazardous substances in underground storage tanks and requires underground storage tanks which are used to store hazardous substances and are installed after January 1, 1984, to meet certain requirements concerning secondary*

containment. Existing law defines the term “hazardous substance” for purposes of these provisions.

This bill would make technical revisions to that definition.

(3) Under existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, owners and operators of petroleum underground storage tanks are required to establish and maintain evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage arising from operating an underground storage tank. Existing law requires every owner of an underground storage tank to pay a storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The money in the fund may be expended by the State Water Resources Control Board, upon appropriation by the Legislature, for various purposes, including payment of a California regional water quality control board’s or local agency’s corrective action costs, and the payment of claims to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks. Existing law provides that the fund may sue and be sued in its own name.

This bill would make a statement of legislative intent regarding the construction of the act. The bill would revise the definition of the term “claim” for purposes of the act and would define the term “adjudicative proceeding” for purposes of the act. The bill would delete the authorization for the fund to sue and be sued in its own name.

(4) Existing law requires the board to pay a claim for regulatory technical assistance to a property owner or operator who meets specified requirements and who is otherwise eligible for reimbursement.

This bill would limit the amount of such a claim to \$3,000 and would provide that technical assistance only includes assistance in the preparation and submission of a claim, as specified.

(5) Existing law requires the board to determine an applicant’s eligibility for a claim for corrective actions costs and to notify the applicant of this determination within 60

days of the receipt of the claim application and if a claimant requests a review of that determination, the board is required to render a decision within 30 days. The board is required to issue all decisions on a claim for corrective action costs and third party costs within 90 days after submission.

This bill would revise the procedures for making determinations on, those claims, including requiring the board to make a determination within 60 days from the date of the receipt of the claim application. The bill would specify procedures for filing a petition for review with regard to an unpaid claim, would specify the standard for judicial review of a final decision by the board, and would provide for related matters.

(6) Existing law specifies the conditions under which a corrective action site may be closed and authorizes the board to require closure of a tank case under the jurisdiction of a regional board or local agency that is implementing the local oversight program.

This bill would authorize the board to recommend closure of a tank case that is under the jurisdiction of a local agency that is not implementing the local oversight program and would specify procedures for the review of that decision. This bill would impose a state-mandated local program by imposing new duties upon the local agencies that implement the act.

(7) Existing law requires the board to pay a claim for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank which has been the subject of a completed corrective action and for which additional corrective action is required because of additionally discovered contamination from the previous release.

This bill would specify that corrective action is completed when the local agency or regional board has issued a closure letter.

(8) The bill would correct obsolete references.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13480 of the Business and
2 Professions Code is amended to read:
3 13480. (a) It is unlawful for any person to sell any
4 petroleum product referred to in this chapter at any place
5 where petroleum products are kept or stored for sale,
6 unless there is affixed to each container, receptacle,
7 pump, dispenser, and inlet end of the fill pipe of each
8 underground storage tank, from which or into which that
9 product is drawn or poured out for sale or delivery, a sign
10 or label plainly visible consisting of the name of the
11 product, the brand, trademark, or trade name of the
12 product, and, in the case of engine fuel and kerosene, the
13 grade or brand name designation.
14 (b) When the product is oil, as defined by Section
15 13401, each sign or label shall also have in letters or
16 numerals, plainly visible, the viscosity grade classification
17 as determined in accordance with the Society of
18 Automotive Engineers (SAE) latest standard for engine
19 oil viscosity classification SAE J300 or manual
20 transmission and axle lubricants viscosity classification
21 SAE J306, as applicable, and shall be preceded by the
22 letters ~~“SAE”~~. “SAE.”
23 (c) When the product is automotive spark-ignition
24 engine fuel, except M-85 and M-100 methanol fuel, there
25 shall be conspicuously displayed on the dispensing device
26 at least one sign or label showing the minimum octane
27 number or antiknock index, as defined in Section 13403,
28 of the product sold therefrom.
29 (d) When the product is a motor fuel consisting of a
30 mixture or premixture of gasoline and oil or
31 gasoline-oxygenate blend and motor oil, there shall be
32 conspicuously displayed on the dispensing device at least

1 one sign or label stating the ratio of gasoline to motor oil
2 or gasoline-oxygenate blend to motor oil.

3 (e) All signs or labels required by this section for retail
4 motor fuel dispensers and containers of more than one
5 gallon capacity shall be in letters and numerals not less
6 than one-half inch (12.70 mm) in height. On containers
7 of one gallon or less, the signs or labels shall be in letters
8 and numerals not less than one-fourth inch (6.35 mm) in
9 height and one-sixteenth inch (1.59 mm) in width.

10 (f) The provisions of this section pertaining to octane
11 numbers or antiknock index and motor oil SAE viscosity
12 number grade shall not apply to products sold for aviation
13 purposes.

14 (g) This section shall apply, with respect to thinners or
15 solvents, only to the sale, delivery, or offer for sale of the
16 products through service stations, garages, and other
17 retail outlets.

18 *SEC. 2. Section 25281 of the Health and Safety Code*
19 *is amended to read:*

20 25281. For purposes of this chapter, the following
21 definitions apply:

22 (a) "Automatic line leak detector" means any method
23 of leak detection, as determined in regulations adopted
24 by the board, which alerts the owner or operator of an
25 underground storage tank to the presence of a leak.
26 "Automatic line leak detector" includes, but is not limited
27 to, any device or mechanism which alerts the owner or
28 operator of an underground storage tank to the presence
29 of a leak by restricting or shutting off the flow of
30 hazardous substance through piping, or by triggering an
31 audible or visual alarm, and which detects leaks of three
32 gallons or more per hour at 10 pounds per square inch line
33 pressure within one hour.

34 (b) "Board" means the State Water Resources Control
35 Board. "Regional board" means a California regional
36 water quality control board.

37 (c) (1) "Certified Unified Program Agency" or
38 "CUPA" means the agency certified by the Secretary for
39 Environmental Protection to implement the unified

1 program specified in Chapter 6.11 (commencing with
2 Section 25404) within a jurisdiction.

3 (2) “Participating Agency” or “PA” means an agency
4 which has a written agreement with the CUPA pursuant
5 to subdivision (d) of Section 25404.3, and is approved by
6 the secretary to implement or enforce the unified
7 program element specified in paragraph (3) of
8 subdivision (c) of Section 25404, in accordance with the
9 provisions of Sections 25404.1 and 25404.2.

10 (3) “Unified Program Agency” or “UPA” means the
11 CUPA, or its participating agencies to the extent each PA
12 has been designated by the CUPA, pursuant to a written
13 agreement, to implement or enforce the unified program
14 element specified in paragraph (3) of subdivision (c) of
15 Section 25404. For purposes of this chapter, the UPAs
16 have the responsibility and authority, to the extent
17 provided by this chapter and Sections 25404.1 and 25404.2,
18 to implement and enforce only those requirements of this
19 chapter listed in paragraph (3) of subdivision (c) of
20 Section 25404. The UPAs also have the responsibility and
21 authority, to the extent provided by this chapter and
22 Sections 25404.1 and 25404.2, to implement and enforce
23 the regulations adopted to implement the requirements
24 of this chapter listed in paragraph (3) of subdivision (c)
25 of Section 25404. After a CUPA has been certified by the
26 secretary, the unified program agencies shall be the only
27 local agencies authorized to enforce the requirements of
28 this chapter listed in paragraph (3) of subdivision (c) of
29 Section 25404 within the jurisdiction of the CUPA. This
30 section shall not be construed to limit the authority or
31 responsibility granted to the board and the regional
32 boards by this chapter to implement and enforce this
33 chapter and the regulations adopted pursuant thereto.

34 (d) “Department” means the Department of Toxic
35 Substances Control.

36 (e) “Facility” means any one, or combination of,
37 underground storage tanks used by a single business
38 entity at a single location or site.

39 (f) “Federal act” means Subchapter IX (commencing
40 with Section 6991) of Chapter 82 of Title 42 of the United

1 States Code, as added by the Hazardous and Solid Waste
2 Amendments of 1984 (P.L. 98-616), or as it may
3 subsequently be amended or supplemented.

4 (g) "Hazardous substance" means ~~both~~ *either* of the
5 following:

6 (1) All of the following liquid and solid substances,
7 unless the department, in consultation with the board,
8 determines that the substance could not adversely affect
9 the quality of the waters of the state:

10 (A) Substances on the list prepared by the Director of
11 Industrial Relations pursuant to Section 6382 of the Labor
12 Code.

13 (B) Hazardous substances, as defined in Section 25316.

14 (C) Any substance or material which is classified by
15 the National Fire Protection Association (NFPA) as a
16 flammable liquid, a class II combustible liquid, or a class
17 III-A combustible liquid.

18 (2) Any regulated substance, as defined in subsection
19 (2) of Section 6991 of Title 42 of the United States Code,
20 as that section reads on January 1, 1989, or as it may
21 subsequently be amended or supplemented.

22 (h) "Local agency" means the local agency
23 authorized, pursuant to Section 25283, to implement this
24 chapter.

25 (i) "Operator" means any person in control of, or
26 having daily responsibility for, the daily operation of an
27 underground storage tank system.

28 (j) "Owner" means the owner of an underground
29 storage tank.

30 (k) "Person" means an individual, trust, firm, joint
31 stock company, corporation, including a government
32 corporation, partnership, limited liability company, or
33 association. "Person" also includes any city, county,
34 district, the state, any department or agency thereof, or
35 the United States to the extent authorized by federal law.

36 (l) "Pipe" means any pipeline or system of pipelines
37 which is used in connection with the storage of hazardous
38 substances and which is not intended to transport
39 hazardous substances in interstate or intrastate

1 commerce or to transfer hazardous materials in bulk to or
2 from a marine vessel.

3 (m) “Primary containment” means the first level of
4 containment, such as the portion of a tank which comes
5 into immediate contact on its inner surface with the
6 hazardous substance being contained.

7 (n) “Product tight” means impervious to the
8 substance which is contained, or is to be contained, so as
9 to prevent the seepage of the substance from the primary
10 containment. To be product tight, the tank shall not be
11 subject to physical or chemical deterioration by the
12 substance which it contains over the useful life of the
13 tank.

14 (o) “Release” means any spilling, leaking, emitting,
15 discharging, escaping, leaching, or disposing from an
16 underground storage tank into or on the waters of the
17 state, the land, or the subsurface soils.

18 (p) “Secondary containment” means the level of
19 containment external to, and separate from, the primary
20 containment.

21 (q) “Single walled” means construction with walls
22 made of only one thickness of material. For the purposes
23 of this chapter, laminated, coated, or clad materials are
24 considered single walled.

25 (r) “Special inspector” means a professional engineer,
26 registered pursuant to Chapter 7 (commencing with
27 Section 6700) of Division 3 of the Business and Professions
28 Code, who is qualified to attest, at a minimum, to
29 structural soundness, seismic safety, the compatibility of
30 construction materials with contents, cathodic
31 protection, and the mechanical compatibility of the
32 structural elements of underground storage tanks.

33 (s) “Storage” or “store” means the containment,
34 handling, or treatment of hazardous substances, either on
35 a temporary basis or for a period of years. “Storage” or
36 “store” does not mean the storage of hazardous wastes in
37 an underground storage tank if the person operating the
38 tank has been issued a hazardous waste facilities permit
39 by the department pursuant to Section 25200 or granted
40 interim status under Section 25200.5.



1 (t) "Tank" means a stationary device designed to
2 contain an accumulation of hazardous substances which
3 is constructed primarily of nonearthen materials (e.g.
4 wood, concrete, steel, plastic) which provides structural
5 support.

6 (u) "Tank integrity test" means a test method capable
7 of detecting an unauthorized release from an
8 underground storage tank consistent with the minimum
9 standards adopted by the board.

10 (v) "Tank tester" means an individual who performs
11 tank integrity tests on underground storage tanks.

12 (w) "Unauthorized release" means any release of any
13 hazardous substance which does not conform to this
14 chapter, including, but not limited to, an unauthorized
15 release specified in Section 25295.5, unless this release is
16 authorized by the board or a regional board pursuant to
17 Division 7 (commencing with Section 13000) of the
18 Water Code.

19 (x) (1) "Underground storage tank" means any one
20 or combination of tanks, including pipes connected
21 thereto, which is used for the storage of hazardous
22 substances and which is substantially or totally beneath
23 the surface of the ground. "Underground storage tank"
24 does not include any of the following:

25 (A) A tank with a capacity of 1,100 gallons or less which
26 is located on a farm and which stores motor vehicle fuel
27 used primarily for agricultural purposes and not for
28 resale.

29 (B) A tank which is located on a farm or at the
30 residence of a person, which has a capacity of 1,100 gallons
31 or less, and which stores home heating oil for
32 consumptive use on the premises where stored.

33 (C) Structures, such as sumps, separators, storm
34 drains, catch basins, oil field gathering lines, refinery
35 pipelines, lagoons, evaporation ponds, well cellars,
36 separation sumps, lined and unlined pits, sumps and
37 lagoons. Sumps which are a part of a monitoring system
38 required under Section 25291 or 25292 and sumps or other
39 structures defined as underground storage tanks under
40 the federal act are not exempted by this subparagraph.

(D) A tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(2) Structures identified in subparagraphs (C) and (D) of paragraph (1) may be regulated by the board and any regional board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

(y) “Underground tank system” or “tank system” means an underground storage tank, connected piping, ancillary equipment, and containment system, if any.

(z) (1) “Unified program facility” means all contiguous land and structures, other appurtenances, and improvements on the land which are subject to the requirements of paragraph (3) of subdivision (c) of Section 25404.

(2) “Unified program facility permit” means a permit issued pursuant to Chapter 6.11 (commencing with Section 25404), and which encompasses the permitting requirements of Section 25284.

(3) “Permit” means a permit issued pursuant to Section 25284 or a unified program facility permit as defined in paragraph (2).

SEC. 3. Section 25299.10 of the Health and Safety Code is amended to read:

25299.10. (a) This chapter shall be known, and may be cited, as the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989.

(b) The Legislature hereby finds and declares all of the following:

(1) In order to help ensure an efficient petroleum underground storage tank cleanup program that adequately protects public health and safety and the environment and provides for the rapid distribution of cleanup funds that will assist the state’s recovery, it is in the best interest of the public that the board devote maximum effort to the expedited processing and payment of all claims filed pursuant to Sections 25299.57 and 25299.58.

1 (2) It is estimated that approximately 90 percent of the
2 underground storage tanks in the state contain
3 petroleum and the remaining 10 percent of the tanks
4 contain various chemical constituents.

5 (3) Although the exact extent of the problem is
6 unknown, it is thought that a significant number of the
7 underground storage tanks containing petroleum in the
8 state may be leaking.

9 (4) In recent years, owners or operators of
10 underground storage tanks have been unable to obtain
11 affordable environmental impairment liability insurance
12 coverage to pay for corrective action or the obtainable
13 coverage has been outside their financial means.

14 (5) There are long-term threats to public health and
15 water quality if a comprehensive, uniform, and efficient
16 corrective action program is not established.

17 (6) It is in the best interest of the health and safety of
18 the people of the state to establish a fund to pay for
19 corrective action where coverage is not available.

20 (7) A uniform, comprehensive, and efficient program
21 establishing financial responsibility and corrective action
22 requirements for leaking underground storage tanks
23 containing petroleum will enable private commercial
24 insurers to expand the availability and affordability of
25 insurance coverage.

26 (8) An efficient program of establishing corrective
27 action requirements and funds or insurance coverage
28 should encourage corrective action to be taken in the first
29 instance by the owner or operator of the leaking
30 underground storage tank containing petroleum.

31 (9) Subchapter IX (commencing with Section 6991) of
32 Chapter 82 of Title 42 of the United States Code provides
33 for regulation of underground storage tanks and allows
34 underground storage tanks to be regulated pursuant to a
35 state program, in lieu of a federal program, in states which
36 are authorized to implement these provisions.

37 (10) It is in the interest of the people of the state, in
38 order to avoid direct regulation by the federal
39 government of persons already subject to regulation
40 under state law pursuant to Chapter 6.7 (commencing

1 with Section 25280), to authorize the state to implement
2 the provisions of Subchapter IX (commencing with
3 Section 6991) of Chapter 82 of Title 42 of the United States
4 Code, including any acts amending or supplementing
5 Subchapter IX and any federal regulations and guidelines
6 adopted pursuant to Subchapter IX.

7 (11) It is in the public interest for the state to provide
8 financial assistance to small businesses and farms which
9 have limited financial resources, to ensure timely
10 compliance with the law governing underground storage
11 tanks, and to ensure the adequate protection of
12 groundwater.

13 (12) *Nothing in this chapter shall be construed as*
14 *waiving any immunity provided the state or its*
15 *departments and agencies by the Constitution of the*
16 *United States.*

17 *SEC. 4. Section 25299.11.5 is added to the Health and*
18 *Safety Code, to read:*

19 25299.11.5. “Adjudicative proceeding” has the same
20 meaning as defined in Section 11405.20 of the
21 Government Code.

22 *SEC. 5. Section 25299.13 of the Health and Safety*
23 *Code is amended to read:*

24 25299.13. “Claim” means ~~any demand in writing for a~~
25 ~~certain sum~~ *a written request for payment of costs*
26 *eligible for reimbursement from the fund.*

27 *SEC. 6. Section 25299.37 of the Health and Safety*
28 *Code is amended to read:*

29 25299.37. (a) Each owner, operator, or other
30 responsible party shall take corrective action in response
31 to an unauthorized release in compliance with this
32 section and regulations adopted pursuant to Section
33 25299.77. In adopting regulations pursuant to Section
34 25299.77, the board shall develop corrective action
35 requirements for health hazards and protection of the
36 environment, based on the severity of the health hazards
37 and the other factors listed in subdivision (b).

38 (b) Any corrective action conducted pursuant to this
39 section shall ensure protection of human health, safety,
40 and the environment. The corrective action shall be

1 consistent with any applicable waste discharge
2 requirements or other order issued pursuant to Division
3 7 (commencing with Section 13000) of the Water Code,
4 all applicable state policies for water quality control
5 adopted pursuant to Article 3 (commencing with Section
6 13140) of Chapter 3 of Division 7 of the Water Code, and
7 all applicable water quality control plans adopted
8 pursuant to Section 13170 of the Water Code and Article
9 3 (commencing with Section 13240) of Chapter 4 of
10 Division 7 of the Water Code.

11 (c) (1) When a local agency, the board, or a regional
12 board requires an owner, operator, or other responsible
13 party to undertake corrective action, including
14 preliminary site assessment and investigation, pursuant
15 to an oral or written order, direction, notification, or
16 approval issued pursuant to this section, or pursuant to a
17 cleanup and abatement order or other oral or written
18 directive issued pursuant to Division 7 (commencing
19 with Section 13000) of the Water Code, the owner,
20 operator, or other responsible party shall prepare a
21 workplan that details the actions to be taken by the
22 owner, operator, or other responsible party to achieve the
23 required corrective action.

24 (2) The workplan required by paragraph (1) shall be
25 prepared in accordance with the regulations adopted
26 pursuant to Section 25299.77. The workplan shall include
27 a schedule and timeline for corrective action.

28 (3) At the request of the owner, operator, or other
29 responsible party, the local agency, the board, or the
30 regional board shall review and accept a workplan that
31 meets the requirements of this section.

32 (4) In the interests of minimizing environmental
33 contamination and promoting prompt cleanup, the
34 responsible party may begin implementation of the
35 proposed actions after the workplan has been submitted
36 but before the workplan has received regulatory agency
37 acceptance, except that implementation of the workplan
38 may not begin until 60 calendar days from the date of
39 submittal, unless the responsible party is otherwise
40 directed in writing by the regulatory agency. However,

1 before beginning implementation pursuant to this
2 paragraph, the responsible party shall notify the
3 regulatory agency of the intent to initiate proposed
4 actions set forth in the submitted workplan.

5 (5) The owner, operator, or other responsible party
6 shall conduct corrective actions in accordance with the
7 workplan approved pursuant to the section.

8 (6) The local agency, the board, or the regional board
9 shall advise and work with the owner, operator, or other
10 responsible party on the opportunity to seek preapproval
11 of corrective action costs pursuant to Section 2811.4 of
12 Title 23 of the California Code of Regulations or any
13 successor regulation. Regional board staff and local
14 agency staff shall work with the responsible party and
15 fund staff to obtain preapproval for the responsible party.

16 (7) When the local agency, the board, or the regional
17 board requires a responsible party to conduct corrective
18 action pursuant to this article, it shall inform the
19 responsible party of its right to request the designation of
20 an administering agency to oversee the site investigation
21 and remedial action at its site pursuant to Section 25262
22 and, if requested to do so by the responsible party, the
23 local agency shall provide assistance to the responsible
24 party in preparing and processing a request for that
25 designation.

26 ~~(8) (A) A claimant may request review of any claim~~
27 ~~or portion of a claim not paid. The review shall be~~
28 ~~conducted and a decision rendered within 30 days from~~
29 ~~the date of receipt of the request.~~

30 ~~(B) The claimant may file an appeal, in writing, with~~
31 ~~the board with regard to any unpaid claim that is~~
32 ~~unresolved to the satisfaction of the claimant upon~~
33 ~~expiration of the 30 day period and the appeal shall be~~
34 ~~heard and decided by the board within 90 days from the~~
35 ~~date of the board's receipt of the appeal.~~

36 ~~(C) All claims that are approved shall be forwarded to~~
37 ~~the Controller within 10 days from the date of approval~~
38 ~~for payment by the Controller.~~

39 (d) Notwithstanding Section 25297.1, the board shall
40 implement a procedure which does not assess an owner,

operator, or responsible party taking corrective action pursuant to this chapter for the costs of a local oversight program pursuant to paragraph (4) of subdivision (d) of Section 25297.1. The board shall institute an internal procedure for assessing, reviewing, and paying those costs directly between the board and the local agency. At least 15 days before the board proposes to disapprove a claim for corrective action costs which have been incurred on the grounds that the costs were unreasonable or unnecessary, the board shall issue a notice advising the claimant and the lead agency of the proposed disallowance, to allow review and comment.

(e) A person to whom an order is issued pursuant to subdivision (c), shall have the same rights of administrative and judicial appeal and review as are provided by law for cleanup and abatement orders issued pursuant to Section 13304 of the Water Code.

(f) Until the board adopts regulations pursuant to Section 25299.77, the owner, operator, or other responsible party shall take corrective action in accordance with Chapter 6.7 (commencing with Section 25280) and the federal act.

(g) If a person to whom an order is issued pursuant to subdivision (c) does not comply with the order, the regional board or the local agency may undertake or contract for corrective action and recover costs pursuant to Section 25299.70.

(h) ~~On or before March 1, 1997, the~~ The board shall adopt the following uniform closure letter:

“[Case File Number]

Dear [Responsible Party]

This letter confirms the completion of a site investigation and remedial action for the underground storage tank(s) formerly located at the above described location. Thank you for your cooperation throughout this investigation. Your willingness and promptness in responding to our inquiries concerning the former underground storage tank(s) are greatly appreciated.

1 Based on information in the above-referenced file and with the
2 provision that the information provided to this agency was accurate
3 and representative of site conditions, no further action related to the
4 underground tank release is required.

5
6 This notice is issued pursuant to a regulation contained in Section
7 2721(e) of Title 23 of the California Code of Regulations.

8
9 Please contact our office if you have any questions regarding this
10 matter.

11
12 Sincerely,

13
14
15 [Name of Regional Board Executive Officer or Local Agency
16 Director]”

17
18 *SEC. 7. Section 25299.39.2 of the Health and Safety*
19 *Code is amended to read:*

20 25299.39.2. (a) The manager responsible for the fund
21 shall notify tank owners or operators who have an active
22 letter of commitment which has been in an active status
23 for five years or more and shall review the case history of
24 their tank case on an annual basis unless otherwise
25 notified by the tank owner or operator within 30 days of
26 the notification. The manager, with approval of the tank
27 owner or operator, may make a recommendation to the
28 board for closure. The board may *close the tank case or*
29 *require the closure of a tank case at a site under the*
30 *jurisdiction of a regional boards board or a local agencies*
31 *agency implementing a local oversight program under*
32 *Section 25297.1; in accordance with the procedures*
33 *specified in subdivision (b). If a tank case is under the*
34 *jurisdiction of a local agency that is not implementing a*
35 *local oversight program under Section 25297.1, the board*
36 *may recommend to the local agency that the case be*
37 *closed.*

38 ~~(b) Any owner or operator that has a tank case~~

39 (b) (1) Any owner, operator, or other responsible
40 party who has a tank case and who believes that the

~~owner's or operator's corrective action plan for the site has been satisfactorily implemented, but where closure has not been granted, may petition the fund manager board for a review of the case. However, if the tank owner or operator is not eligible to apply to the fund for reimbursement of a claim, whether or not the petitioner is eligible for reimbursement from the fund pursuant to Section 25299.54, the owner or operator may petition the board for a review.~~

(2) If a tank case is under the jurisdiction of a regional board or a local agency that is implementing a local oversight program under Section 25297.1, the board may close the tank case or require the closure of the tank case.

(3) If a tank case is under the jurisdiction of a local agency that is not implementing a local oversight program, the board may recommend to the local agency that the case be closed.

(c) Any aggrieved person may, not later than 30 days from the date of final action by the board pursuant to subdivision (a) or paragraph (1) or (2) of subdivision (b), file with the superior court a petition for writ of mandate for review of the decision. If the aggrieved person does not file a petition for writ of mandate within the time provided by this subdivision, a board decision shall not be subject to review by any court. Section 1094.5 of the Code of Civil Procedure shall govern proceedings for which petitions are filed pursuant to this subdivision. For purposes of subdivision (c) of Section 1094.5 of the Code of Civil Procedure, the court shall uphold the decision if the decision is based upon substantial evidence in light of the whole record.

SEC. 8. Section 25299.52 of the Health and Safety Code is amended to read:

25299.52. (a) The board shall adopt a priority ranking list at least annually for awarding claims pursuant to Section 25299.57 or 25299.58. Any owner or operator eligible for payment of a claim pursuant to Section 25299.54 shall file an application with the board within a reasonable period, to be determined by the board, prior to adoption of the priority ranking list.

(b) Except as provided in subdivision (c), in awarding claims pursuant to Section 25299.57 or 25299.58, the board shall pay claims in accordance with the following order of priority:

(1) Owners of tanks who are eligible to file a claim pursuant to subdivision (e) of Section 25299.54.

(2) Owners and operators of tanks which are either of the following:

(A) An owner or operator of a tank that is a small business, as defined in subdivision (c) of Section 14837 of the Government Code. An owner or operator which meets that definition of small business, but who is domiciled or has its principle office outside of the state, shall be classified in this category if the owner or operator otherwise meet the requirements of subdivision (c) of Section 14857 of the Government Code with regard to the number of employees and the total annual revenues received.

(B) An owner or operator which is a city, county, district, or nonprofit organization that receives total annual revenues of not more than seven million dollars (\$7,000,000). In determining the amount of a nonprofit organization's annual revenues, the board shall calculate only those revenues directly attributable to the particular site at which the tank or tanks for which the claim is submitted are located.

(3) Owners or operators of tanks which are either of the following:

(A) The owner or operator owns and operates a business which employs fewer than 500 full-time and part-time employees, is independently owned and operated, and is not dominant in its field of operation.

(B) The owner or operator is a city, county, district, or nonprofit organization that employs fewer than 500 full-time and part-time employees. In determining the number of employees employed by a nonprofit organization, the board shall calculate only those employees employed at the particular site at which the tank or tanks for which the claim is submitted are located.

(4) All other tank owners and operators.

1 (c) (1) In any year in which the board is not otherwise
2 authorized to award at least 15 percent of the total
3 amount of funds committed for that year to tank owners
4 or operators in those categories set forth in paragraph (3)
5 or (4) of subdivision (b) due to the priority ranking list
6 award limitations set forth in subdivision (b), the board
7 shall allocate between 14 and 16 percent of the total
8 amount of funds committed for that year to each category
9 that is not otherwise entitled to at least that level of
10 committed funding for that year.

11 (2) If the total amount of claims outstanding in one or
12 more of the priority categories specified in paragraph (3)
13 or (4) of subdivision (b) is less than 15 percent of the total
14 amount annually appropriated from the fund for the
15 purpose of awarding claims, the board shall reserve for
16 making claims in that category only the amount that is
17 necessary to satisfy the outstanding claims in that
18 category.

19 (d) The board shall give priority to a claim which is
20 filed before the effective date of the act adding this
21 subdivision by a city, county, or district that is eligible for
22 payment pursuant to Section 25299.54 in the following
23 manner:

24 (1) The board shall determine whether the priority
25 category specified for a city, county, or district pursuant
26 to subparagraph (B) of paragraph (2), or pursuant to
27 subparagraph (B) of paragraph (3), of subdivision (b)
28 requires that the priority ranking of the claim be
29 changed.

30 (2) If the priority ranking of the claim is changed and
31 the claim is placed into either the priority category
32 specified in subparagraph (B) of paragraph (2), or
33 specified in subparagraph (B) of paragraph (3), of
34 subdivision (b), the board shall pay all other claims that
35 were assigned to that priority category prior to the
36 effective date of the act adding this subdivision before
37 paying the claim of the city, county, or district.

38 (e) The board may, to carry out the intent specified in
39 paragraph (1) of subdivision (b) of Section 25299.10 and
40 to expedite the processing and awarding of claims

1 pursuant to Sections 25299.57 and 25299.58, implement
2 the contracting procedures required by Chapter 10
3 (commencing with Section 4525) of Division 5 of Title 1
4 of the Government Code, as may be necessary, to
5 alleviate the claims processing and award backlog. If, at
6 the conclusion of any fiscal year, 25 percent or more of the
7 funds appropriated annually for awards to claimants
8 during that year have not actually been obligated by the
9 board, the board shall, at its next regularly scheduled
10 meeting, determine, in a public hearing, whether, given
11 the circumstances of the awards backlog, it is appropriate
12 to implement those contracting procedures for some, or
13 all, of the claims filed with the board.

14 (f) For purposes of this section, the following
15 definitions shall apply:

16 (1) "Nonprofit organization" means a nonprofit public
17 benefit organization incorporated pursuant to Part 2
18 (commencing with Section 5110) of Division 2 of Title 1
19 of the Corporations Code.

20 (2) "Annual revenue," with respect to public entities,
21 means the total annual general purpose revenues,
22 excluding all restricted revenues over which the
23 governing agency has no discretion, as reported in the
24 Annual Report of Financial Transactions submitted to the
25 Controller, for the latest fiscal year ending prior to the
26 date the fund reimbursement claim application was filed.

27 (3) "Annual revenue," with respect to nonprofit
28 organizations, means the total annual revenues, as shown
29 in an annual fiscal report filed with the Registry of
30 Charitable Trusts of state and federal tax records, based
31 on the latest fiscal year ending prior to the date the fund
32 reimbursement claim application was filed.

33 (4) "General purpose revenues," as used in paragraph
34 (2), means revenues consisting of all of the following:
35 secured and unsecured revenues; less than countywide
36 funds, secured and unsecured; prior year secured and
37 unsecured penalties and delinquent taxes; sales and use
38 taxes; transportation taxes (nontransit); property
39 transfer taxes; transient lodging taxes; timber yield taxes;
40 aircraft taxes; franchise taxes; fines, forfeitures, and

1 penalties; revenues from use of money and property;
2 motor vehicle in-lieu taxes; trailer coach in-lieu taxes;
3 homeowner property tax relief; open-space tax relief; and
4 cigarette taxes.

5 ~~(g) The fund may sue and be sued in its own name.~~

6 *SEC. 8. Section 25299.54 of the Health and Safety*
7 *Code is amended to read:*

8 25299.54. (a) Except as provided in subdivisions (b),
9 (c), (d), and (e) an owner or operator, required to
10 perform corrective action pursuant to Section 25299.37,
11 or an owner or operator who, as of January 1, 1988, is
12 required to perform corrective action, who has initiated
13 this action in accordance with Division 7 (commencing
14 with Section 13000) of the Water Code, who is
15 undertaking corrective action in compliance with waste
16 discharge requirements or other orders issued pursuant
17 to Division 7 (commencing with Section 13000) of the
18 Water Code, or Chapter 6.7 (commencing with Section
19 25280), may apply to the board for satisfaction of a claim
20 filed pursuant to this article.

21 (b) A person who has failed to comply with Article 3
22 (commencing with Section 25299.30) is ineligible to file
23 a claim pursuant to this section.

24 (c) Any owner or operator of an underground storage
25 tank containing petroleum is ineligible to file a claim
26 pursuant to this section if the person meets both of the
27 following conditions:

28 (1) The person knew, before January 1, 1988, of the
29 unauthorized release of petroleum which is the subject of
30 the claim.

31 (2) The person did not initiate, on or before June 30,
32 1988, any corrective action in accordance with Division 7
33 (commencing with Section 13000) of the Water Code
34 concerning the release, or the person did not, on or before
35 June 30, 1988, initiate corrective action in accordance
36 with Chapter 6.7 (commencing with Section 25280) or
37 the person did not initiate action on or before June 30,
38 1988, to come into compliance with waste discharge
39 requirements or other orders issued pursuant to Division

1 7 (commencing with Section 13000) of the Water Code
2 concerning the release.

3 (d) An owner or operator who violates Article 4
4 (commencing with Section 25299.36) is liable for any
5 corrective action costs which result from the owner's or
6 operator's violation of Article 4 (commencing with
7 Section 25299.36) and is ineligible to file a claim pursuant
8 to this section.

9 (e) Notwithstanding this chapter, a person who owns
10 a tank located underground that is used to store
11 petroleum may apply to the board for satisfaction of a
12 claim, and the board may pay the claim pursuant to
13 Section 25299.57 without making the findings specified in
14 paragraph (3) of subdivision (d) of Section 25299.57 if all
15 of the following apply:

16 (1) The tank meets one of the following requirements:

17 (A) The tank is located at the residence of a person on
18 property used exclusively for residential purposes at the
19 time of discovery of the unauthorized release of
20 petroleum.

21 (B) The tank owner demonstrates that the tank is
22 located on property which, on and after January 1, 1985,
23 is not used for agricultural purposes, the tank is of a type
24 specified in *subparagraph (B) of paragraph (2) (1)* of
25 subdivision (x) of Section 25281, and the petroleum in the
26 tank is used solely for the purposes specified in
27 *subparagraph (B) of paragraph (2) (1)* of subdivision (x)
28 of Section 25281 on and after January 1, 1985.

29 (2) The tank is not a tank described in *subparagraph*
30 *(A) of paragraph (1) of subdivision (x) of Section 25281*
31 and the tank is not used on or after January 1, 1985, for the
32 purposes specified in that paragraph.

33 (3) The claimant has complied with Section 25299.31
34 and the permit requirements of Chapter 6.7
35 (commencing with Section 25280), or the claimant is not
36 subject to the requirements of those provisions.

37 (f) Whenever the board has authorized the
38 prepayment of a claim pursuant to Section 25299.57, and
39 the amount of money available in the fund is insufficient
40 to pay the claim, the owner or operator shall remain

1 obligated to undertake the corrective action in
2 accordance with Section 25299.37.

3 (g) The Legislature finds and declares that the
4 changes made to subparagraph (A) of paragraph (1) of
5 subdivision (e) by the act amending this section during
6 the 1991–92 Regular Session is declaratory of existing law.

7 *SEC. 10. Section 25299.56 of the Health and Safety*
8 *Code is repealed.*

9 ~~25299.56. The board shall issue all decisions made on~~
10 ~~a claim filed pursuant to Section 25299.54 in writing, with~~
11 ~~notification to all appropriate parties, within 90 days after~~
12 ~~submission of the claim, unless all parties to the claim~~
13 ~~agree in writing to an extension of time. The decision of~~
14 ~~the board is a final agency action for the purposes of~~
15 ~~judicial review of the decision by any party to the~~
16 ~~proceedings resulting in the decision.~~

17 *SEC. 11. Section 25299.56 is added to the Health and*
18 *Safety Code, to read:*

19 25299.56. (a) The board shall determine an
20 applicant's eligibility for a claim for corrective action
21 costs or third-party compensation costs pursuant to
22 Section 25299.57 or 25299.58 and notify the applicant of
23 that determination within 60 days from the date of the
24 receipt of the claim application. The board may classify
25 the claimant's application pursuant to Section 25299.52
26 after that 60-day period. If the board sends an applicant
27 a determination of eligibility pursuant to this subdivision,
28 the board shall not revoke that determination of
29 eligibility, unless the application contained fraudulent
30 information or a misrepresentation. However, the board
31 may suspend making a reimbursement for a claim until
32 the claimant corrects any deficiencies which are the basis
33 for the suspension. Reinstatement of reimbursement shall
34 occur when funds are available and that reinstatement
35 shall be made ahead of any new letters of commitment to
36 be issued as of the date of reinstatement.

37 (b) A claimant may request review of any claim or
38 portion of a claim not paid. The review shall be conducted
39 and a decision rendered within 30 days from the date of
40 receipt of the request.

1 (c) A claimant may file a petition for review, in
2 writing, with the board with regard to any unpaid claim
3 that is unresolved to the satisfaction of the claimant upon
4 expiration of the 30-day period specified in subdivision
5 (b) and the board shall take final action on the petition
6 within 90 days of the board's receipt of a complete
7 petition for review, except that if the board initiates an
8 adjudicative proceeding on the petition, the board shall
9 take final action within 270 days of the board's receipt of
10 a complete petition for review.

11 (d) Final action on a petition taken by the board is final
12 agency action for the purposes of judicial review of a
13 board decision.

14 (e) A claimant may, not later than 30 days from the
15 date of final action by the board pursuant to subdivision
16 (c), file with the superior court a petition for writ of
17 mandate for review of the decision. If the claimant does
18 not file a petition for writ of mandate within the time
19 provided by this subdivision, a board decision shall not be
20 subject to review by the court. Section 1094.5 of the Code
21 of Civil Procedure shall govern proceedings for which
22 petitions are filed pursuant to this subdivision. For
23 purposes of subdivision (c) of Section 1094.5 of the Code
24 of Civil Procedure, the court shall uphold the decision if
25 the decision is based upon substantial evidence in light of
26 the whole record.

27 (f) Except as specified in subdivision (g), the
28 procedures in Article 8 (commencing with Section
29 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2
30 of, and in Section 11513 of, the Government Code apply
31 to any adjudicative proceedings conducted by the board
32 pursuant to this article.

33 (g) (1) Notwithstanding subdivision (f), Sections 801,
34 802, 803, 804, and 805 of the Evidence Code apply to any
35 adjudicative proceedings conducted by the board
36 pursuant to this article.

37 (2) This section is not a limitation on the authority of
38 the board to authorize the use of the procedure provided
39 in Article 10 (commencing with Section 11445.10) of



1 Chapter 4.5 of Part 1 of Division 3 of Title 2 of the
2 Government Code.

3 SEC. 12. Section 25299.57 of the Health and Safety
4 Code is amended to read:

5 25299.57. (a) ~~(1)~~—If the board makes the
6 determination specified in subdivision (d), the board
7 may only pay for the costs of corrective actions which
8 exceed the level of financial responsibility required to be
9 obtained pursuant to Section 25299.32, but not more than
10 one million dollars (\$1,000,000) for each occurrence. In
11 the case of an owner or operator who, as of January 1, 1988,
12 was required to perform corrective action, who initiated
13 that corrective action in accordance with Division 7
14 (commencing with Section 13000) of the Water Code or
15 Chapter 6.7 (commencing with Section 25280), and who
16 is undertaking the corrective action in compliance with
17 waste discharge requirements or other orders issued
18 pursuant to Division 7 (commencing with Section 13000)
19 of the Water Code or Chapter 6.7 (commencing with
20 Section 25280), the owner or operator may apply to the
21 board for satisfaction of a claim filed pursuant to this
22 article. It is the intent of the Legislature that claimants
23 applying for satisfaction of claims from the fund be
24 notified of eligibility for reimbursement in a prompt and
25 timely manner and that a letter of credit or commitment
26 which will obligate funds for reimbursement follow the
27 notice of eligibility as soon thereafter as possible.

28 ~~(2) The board shall determine an applicant's eligibility~~
29 ~~for a claim pursuant to this section and notify the~~
30 ~~applicant of that determination within 60 days from the~~
31 ~~date of the receipt of the claim application. The board~~
32 ~~may classify the claimant's application pursuant to~~
33 ~~Section 25299.52 after that 60-day period. If the board~~
34 ~~sends an applicant a determination of eligibility pursuant~~
35 ~~to this paragraph, the board shall not revoke that~~
36 ~~determination of eligibility, unless the application~~
37 ~~contained fraudulent information or misrepresentation.~~
38 ~~However, the board may suspend making a~~
39 ~~reimbursement for a claim until the claimant corrects any~~
40 ~~deficiencies which are the basis for the suspension.~~

~~Reinstatement of reimbursement shall occur when funds are available and that reinstatement shall be made ahead of any new letters of commitments to be issued as of the date of reinstatement.~~

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary.

(2) The board shall not reject any actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following applies:

(A) Auxiliary documentation is provided which documents to the board's satisfaction that the invoice is for necessary corrective action work.

(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work performed during the same time period covered by the invoice for which reimbursement is sought.

(C) The invoices include a brief description of the work performed, the date that the work was performed, the vendor, and the amount.

(c) For claims eligible for prepayment pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25299.37, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

1 (3) (A) Except as provided in subparagraph (B), the
2 claimant has complied with Section 25299.31 and the
3 permit requirements of Chapter 6.7 (commencing with
4 Section 25280).

5 (B) All claimants who file their claim on or after
6 January 1, 1994, and all claimants who filed their claim
7 prior to that date but are not eligible for a waiver of the
8 permit requirement pursuant to board regulations in
9 effect on the date of the filing of the claim, and who did
10 not obtain or apply for any permit required by subdivision
11 (a) of Section 25284 by January 1, 1990, shall be subject to
12 subparagraph (A) regardless of the reason or reasons that
13 the permit was not obtained or applied for. However, on
14 and after January 1, 1994, the board may waive the
15 provisions of subparagraph (A) as a condition for
16 payment from the fund if the board finds all of the
17 following:

18 (i) The claimant was unaware of the permit
19 requirement prior to January 1, 1990, and there was no
20 intent to intentionally avoid the permit requirement or
21 the fees associated with the permit.

22 (ii) Prior to submittal of the application to the fund,
23 the claimant has complied with Section 25299.31 and has
24 obtained and paid for all permits currently required by
25 this paragraph.

26 (iii) Prior to submittal of the application to the fund,
27 the claimant has paid all current underground storage
28 tank fees imposed pursuant to Section 25299.41 and all
29 prior fees due on and after January 1, 1991.

30 (C) (i) A claimant exempted pursuant to
31 subparagraph (B) shall obtain a level of financial
32 responsibility twice as great as the amount which the
33 claimant is otherwise required to obtain pursuant to
34 subdivision (a) of Section 25299.32.

35 (ii) The board may waive the requirements of clause
36 (i) if the claimant can demonstrate that the conditions
37 specified in clauses (i) to (iii), inclusive, of subparagraph
38 (B) were satisfied prior to the causing of any
39 contamination. That demonstration may be made
40 through a certification issued by the permitting agency

1 based on site and tank tests at the time of permit
2 application or in any other manner acceptable to the
3 board.

4 (D) The board shall rank all claims resubmitted
5 pursuant to subparagraph (B) lower than all claims filed
6 before January 1, 1994, within their respective priority
7 classes specified in subdivision (b) of Section 25299.52.

8 (4) The board has approved either the costs incurred
9 for the corrective action pursuant to subdivision (b) or
10 the estimated costs for corrective action pursuant to
11 subdivision (c).

12 (e) The board shall provide the claimant, whose cost
13 estimate has been approved, a letter of credit authorizing
14 payment of the costs from the fund.

15 (f) The claimant may submit a claim for partial
16 payment to cover the costs of corrective action
17 performed in stages, as approved by the board.

18 (g) (1) Any claimant who submits a claim for
19 payment to the board shall submit multiple bids for
20 prospective costs as prescribed in regulations adopted by
21 the board pursuant to Section 25299.77.

22 (2) Any claimant who submits a claim to the board for
23 the payment of professional engineering and geologic
24 work shall submit multiple proposals and fee estimates, as
25 required by the regulations adopted by the board
26 pursuant to Section 25299.77. The claimant's selection of
27 the provider of these services is not required to be based
28 on the lowest estimated fee, if the fee estimate conforms
29 with the range of acceptable costs established by the
30 board.

31 (3) Any claimant who submits a claim for payment to
32 the board for remediation construction contracting work
33 shall submit multiple bids, as required in the regulations
34 adopted by the board pursuant to Section 25299.77.

35 (4) Paragraphs (1), (2), and (3) do not apply to a tank
36 owned or operated by a public agency if the prospective
37 costs are for private professional services within the
38 meaning of Chapter 10 (commencing with Section 4525)
39 of Division 5 of Title 1 of the Government Code and those

1 services are procured in accordance with the
2 requirements of that chapter.

3 (h) The board shall provide, upon the request of a
4 claimant, assistance to the claimant in the selection of
5 contractors retained by the claimant to conduct
6 reimbursable work related to corrective actions. The
7 board shall develop a summary of expected costs for
8 common remedial actions. This summary of expected
9 costs may be used by claimants as a guide in the selection
10 and supervision of consultants and contractors.

11 (i) The board shall pay, within 60 days from the date
12 of receipt of an invoice of expenditures, all costs specified
13 in the workplan developed pursuant to Section 25299.37,
14 and all costs which are otherwise necessary to comply
15 with an order issued by a local, state, or federal agency.

16 (j) (1) The board shall pay a claim of *not more than*
17 *three thousand dollars (\$3,000)* for regulatory technical
18 assistance to the owner or operator of a property on which
19 is located a release from a petroleum underground
20 storage tank which is the subject of a site investigation or
21 a corrective action and is otherwise eligible for
22 reimbursement under this chapter.

23 (2) *For the purposes of this subdivision, regulatory*
24 *technical assistance includes, and is limited to, assistance*
25 *from a person, other than the claimant, in the preparation*
26 *and submission of a claim to the fund. Regulatory*
27 *technical assistance does not include assistance in*
28 *connection with proceedings under Section 25299.39.2 or*
29 *25299.56 or any action in court.*

30 (k) (1) Notwithstanding any other provision of this
31 section, the board shall pay a claim for the costs of
32 corrective action to a person who owns property on
33 which is located a release from a petroleum underground
34 storage tank which has been the subject of a completed
35 corrective action and for which additional corrective
36 action is required because of additionally discovered
37 contamination from the previous release, only if the
38 person who carried out the earlier and completed
39 corrective action was eligible for, *and applied for,*
40 reimbursement pursuant to subdivision (b), and only to

1 the extent that the amount of reimbursement for the
2 earlier corrective action did not exceed the amount of
3 reimbursement authorized by subdivision (a).
4 Reimbursement to a claimant on a reopened site shall
5 occur when funds are available, and reimbursement
6 commitment shall be made ahead of any new letters of
7 commitment to be issued, as of the date of the reopening
8 of the claim, if funding has occurred on the original claim,
9 in which case funding shall occur at the time it would
10 have occurred under the original claim.

11 *(2) For purposes of this subdivision, a corrective action*
12 *is completed when the local agency or regional board*
13 *with jurisdiction over the site has issued a closure letter.*

14 *SEC. 13. Section 25299.59 of the Health and Safety*
15 *Code is amended to read:*

16 25299.59. (a) ~~If the board Except as specified in~~
17 ~~subdivision (b), the procedures in Article 8~~
18 ~~(commencing with Section 11435.05) of Chapter 4.5 of~~
19 ~~Part 1 of Division 3 of Title 2 of, and in Section 11513 of,~~
20 ~~the Government Code apply to the proceedings~~
21 ~~conducted by the board pursuant to this article.~~

22 ~~(b) Notwithstanding subdivision (a), Sections 801, 802,~~
23 ~~803, 804, and 805 of the Evidence Code apply to the~~
24 ~~proceedings conducted by the board pursuant to this~~
25 ~~article.~~

26 ~~(c) This article does not require any person to pursue~~
27 ~~a claim against the board pursuant to this article before~~
28 ~~seeking any other remedy.~~

29 ~~(d) If the board has paid out of the fund for any costs~~
30 ~~of corrective action, the board shall not pay any other~~
31 ~~claim out of the fund for the same costs.~~

32 ~~(e)~~

33 *(b) Notwithstanding Sections 25299.57 and 25299.58,*
34 *the board shall not reimburse or authorize prepayment*
35 *of any claim in an aggregate amount exceeding one*
36 *million dollars (\$1,000,000), less the minimum level of*
37 *financial responsibility specified in Section 25299.32, for*
38 *a claim arising from the same event or occurrence.*

39 ~~(f)~~

(c) The board may conduct an audit of any corrective action claim honored pursuant to this chapter. The claimant shall reimburse the state for any costs disallowed in the audit. A claimant shall preserve, and make available, upon request of the board or the board's designee, all records pertaining to the corrective action claim for a period of three years after the final payment is made to the claimant.

SEC. 14. Section 25299.62 is added to the Health and Safety Code, to read:

25299.62. All claims that are approved shall be forwarded to the Controller within 10 days from the date of approval, for payment by the Controller.

SEC. 15. Section 25299.63 is added to the Health and Safety Code, to read:

25299.63. This article does not require any person to pursue a claim against the board pursuant to this article before seeking any other remedy. This section does not affect the requirement for exhaustion of administrative remedies before obtaining judicial review of any action of the board on a claim or petition for closure of a tank case.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.